

REMARKS

Claims 1, 2, 4-6, and 9 are pending. Claim 8 is canceled, and claims 6 and 9 are amended in this response. Antecedent basis for the amendment to claims 6 and 9 is found in Figs. 5 and 6 and their corresponding descriptions in the specification of the present application. No new matter has been introduced.

I. Rejection To Claims 1, 2, 4 and 5 Under 35 U.S.C. § 103(a)

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,488,492 to Adams *et al.* ("Adams") in view of U.S. Patent No. 6,093,017 to Saito *et al.* ("Saito"). Applicant respectfully traverses the Examiner's rejection because the Examiner has not established a *prima facie* ground for rejection.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness. MPEP § 2142. The analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

In the Office Action of October 26, 2009, the Examiner rejected claim 1 and its dependent claims by equating Adams' latch member (34) with the lock lever recited in claim 1, stating:

With respect to claim 1, Adams et al discloses...a lock lever rotatably mounted on a top side of said igniter body for operation by a user...a lock lever (34) is capable of engaging said base portion of said rod-like extension to interfere with the rotation of said rod-like extension when the lock lever is operated to release the lock [col 11, line 50-65, col 13, line 3-17]...

Contrary to the Examiner's statement, however, Adams does not disclose the lock lever recited in claim 1. The latch member (34) of Adams does not engage and is not capable of engaging the base portion of the rod-like extension (101). As clearly shown in figures of Adams, the latch member (34) in Adams is located far away from the rod-like extension and its base portion. Moreover, the latch member (34) in Adams has nothing to do with the operation to interfere with the rotation of the rod-like extension. Adams repeatedly describes throughout its specification that the latch member (34) works only to provide two different modes, a high-force mode and a low-force mode, to be applied to a **trigger (25)** by a user. In particular, Adams states:

The plunger member 63 when installed in the lighter is disposed below the latch member 34...

Once the wand assembly 10 is moved to the partially-extended or fully-extended positions, the lighter 2 may be operated in two different modes...

The low-force mode may rely on the user operating two components of the lighter to change the force, from the high-actuation force to the low-actuation force, which is required to be applied to the trigger to operate the lighter. The low-force mode may rely on a user repositioning a plunger member 63 from a high-actuation-force position to a low-actuation-force position. The user may move the plunger member 63 by depressing a latch member 34. After moving the plunger

member, the user may operate the lighter by applying less force to the trigger. The low-force mode may rely on a combination of the physical and cognitive differences between intended and unintended users such as by modifying the shape, size or position of the latch member in relation to the trigger, or alternatively, or in addition to, modifying the force and distance required to activate the latch member and the trigger. Requiring the trigger and latch member to be operated in a particular sequence also may be used to achieve the desired level of resistance to unintended operation.

See col. 9 lines 35-42, and col. 17 lines 21-65 of Adams. As described above, the latch member (34) is far from being capable of engaging the base portion of the rod-like extension to interfere with the rotation of the rod-like extension.

For at least the above reasons, Adams, which teaches entirely different concept, structure, and operation of a lighter from those of the claimed invention of the present application, does **not** render obvious, either alone or in combination with Saito, the claimed invention. Accordingly, Applicant respectfully requests that the rejections to claim 1 and its dependent claims 2, 4 and 5 be withdrawn.

II. Rejection To Claims 6, 8 and 9 Under 35 U.S.C. § 103(a)

Claims 6, 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams in view of U.S. Patent No. 6,505,142 to Inoue *et al.* ("Inoue"). The rejection to claim 8 is moot as claim 8 is canceled.

In the Office Action, the Examiner rejected the claims by equating Adams' hook (62) or cam follower (116) with the lock lever recited in the claims, stating:

...Adams et al discloses an igniter (2) as defined in Claim 6, having a mechanism for preventing the rotation (116) of the rod-like extension comprising a lock lever (62 or 116), which interferes with a part of the base portion of the rod-like extension to prevent rotation thereof [col 13, line 3-17].

See the Office Action of October 26, 2009, p. 6, ¶12.

The amended claim 6 of the present application requires that a lock lever be mounted on a top side of the igniter body for operation by a user and capable of engaging a base portion of the rod-like extension to interfere with the rotation of the rod-like extension. Neither the hook (62) nor the cam follower (116) of Adams is mounted on a top side of the igniter body for operation by a user. Both of the hook (62) and the cam follower (116) of Adams are located inside the lighter body such that a user's finger or hand cannot engage them for operation. Only component that is located on a top side of the igniter body for operation by a user in Adams is the latch member (34). However, as discussed above, the latch member (34) is **not** capable of engaging the base portion of the rod-like extension to interfere with the rotation of the rod-like extension.

For at least the above reasons, Adams, either alone or in combination with Inoue, does **not** render the claimed invention of the present application obvious. Accordingly, Applicant respectfully requests that the rejections to claim 6 and its dependent claim 9 be withdrawn.

CONCLUSION

The Examiner is respectfully requested to reconsider his position in view of the amendments and remarks made herein. It is believed that claims 1, 2, 4-6, and 9 have been placed in condition for allowance, and such action is respectfully requested.

If the Examiner believes that a telephone or other conference would be of value in expediting the prosecution of the present application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicant invites the Examiner to contact Applicant's representative at (310) 777-8399.

Respectfully submitted,

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By

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